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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,691	08/12/2005	Thomas Robert Corbett	ARD124USA	7163

7590
Skinner & Associates
212 Commercial Street
Hudson, WI 54016

02/01/2010

EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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02/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,691	Applicant(s) CORBETT, THOMAS ROBERT	
	Examiner John Paradiso	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-5, 7-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 5, 7-13, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by WEEKLY (US 3033303).

WEEKLY describes a method and apparatus for conveying an operator to harvest produce (see column 1:11-17). The operator is held by a body support element (150) that is horizontally movable forward and back (see column 3: 49-50), and the movement may be accomplished by sliding (see column 3:64-68). The support member can therefore be adjusted to suit an individual operators' body. Since the range of movement is consistent with the proportions of a human figure laying on the body support member (150), the range of motion can be assumed to be 1.5 – 2 m in height (or length, since the figure is prone when the apparatus is in use). The claimed “collection area” and “conveyor system” is being read on the shelves and storage space of WEEKLY (see Fig. 5 and column 3:26-44), the produce being subsequently removed from the collection area and the machine for packing. The movement of the body support and the operator thereon is being read as the optimization of the operator's position.

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3. Claim 2, 4, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WEEKLY.

WEEKLY describes a method and apparatus for conveying an operator to harvest produce, as described above.

WEEKLY does not disclose a plurality of body support elements. WEEKLY also does not disclose sensors to monitor the direction of movement of the harvester.

Regarding claim 2, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of WEEKLY by adding body support elements to increase the number of operators and thus increase the throughput of the machine, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Regarding claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of McCLUNEY by adding a motorized means for adjusting the position of the body support element in order to reduce the effort required by the users, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

Regarding claim 14-15, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add sensors to monitor the direction of movement of the harvester, as known from the admitted prior art, to the invention of McCLUNEY in order to provide extra safety for the user.

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Examiner also notes that it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

Reference Citations

4. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- FULTON discloses a boom on a vehicle which can be read as a linear runner with at least 1m of movement, which would be deemed capable of performing the function recited in the last paragraph of claim 1.
- BLACK discloses a body support that is movable horizontally to move a prone or supine human figure.
- REMPEL discloses a vehicle for harvesting produce with a telescoping boom which can be read as a linear runner with at least 1m of movement, which would be deemed capable of performing the function recited in the last paragraph of claim 1.
- NILSEN discloses a moving vehicle for harvesting produce using a conveyor for moving the produce through the vehicle.

Response to Arguments

5. Applicant's arguments filed 8/31/2009 have been fully considered but are considered moot in view of the new grounds of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

Examiner John Paradiso: (571) 272-4466

January 28, 2010

/Rinaldi I Rada/

Supervisory Patent Examiner, Art Unit 3721

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)